

§ 62-126.9. Scope of leasing program by municipalities.

(a) A municipality that sells electric power to retail customers in the State may elect, by action of its governing council or commission, to be deemed to be an electric generator lessor and may offer leases to solar energy facilities located within the municipality's service territory. The costs a municipality incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating municipality retail customers through rates.

(b) Provided the municipality has elected to offer a leasing program, an electric generator lessor that owns a solar energy facility within a municipality's service territory and that is located on a premises owned or leased by a customer generator lessee shall be permitted to lease such facility exclusively to a customer generator lessee pursuant to a lease under terms and conditions approved by the municipality and holds a valid certificate issued by the Commission pursuant to G.S. 62-126.7. Notwithstanding this subsection, a municipality acting as an electric generator lessor shall not be required to comply with G.S. 62-126.7.

(c) An electric generator lessor, including a municipality acting as an electric generator lessor, shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy facilities are only made available to a customer generator lessee under a lease that conforms to the requirements of G.S. 62-126.6 for the customer generator lessee's use of the customer generator lessee's premises where the solar energy facility is located to serve the electric energy requirements of that particular premises, including to enable the customer generator lessee to obtain a credit under an applicable net metering tariff or to engage in the sale of excess energy from the solar energy facility to the municipality; provided, however, that the provisions of G.S. 62-126.4 shall not apply to a municipality or other electric generator lessor that offers leases to solar energy facilities located within the municipality's service territory pursuant to this section. Any net metering tariffs adopted by such municipality shall be adopted by its governing council or commission in accordance with the rate-setting procedures set forth in Article 16 of Chapter 160A of the General Statutes.

(d) Any lease of a solar energy facility in a municipal electric service area not entered into pursuant to this section is prohibited. This section does not authorize the sale of electricity from solar energy facilities directly to any customer of a municipality by the owner of a solar energy facility. The electrical output from any eligible renewable electric generation facility leased pursuant to this section shall be the sole and exclusive property of the customer generator lessee.

(e) Each eligible solar energy facility shall serve only one premises and shall not serve multiple customer generator lessees or multiple premises. The customer generator lessee must enroll in the applicable rate schedule made available by the municipality, subject to the participation limitations set forth in subsection (a) of this section. (2017-192, s. 6(a).)